

SENATE BILL NO. 511

INTRODUCED BY MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT ~~EXCLUDING FROM~~ ALLOWING A DEDUCTION FOR INDIVIDUAL INCOME TAX ~~ADJUSTED GROSS INCOME~~ PURPOSES ON CAPITAL GAINS FROM STOCK SALES OF QUALIFIED CORPORATIONS IN MONTANA; ESTABLISHING THE QUALIFICATIONS OF THE CORPORATION; ALLOWING A DEDUCTION OF CAPITAL GAINS FROM INCOME FOR THE CORPORATE LICENSE TAX; AND AMENDING SECTIONS 15-30-110, 15-30-111, 15-30-121 AND 15-31-114, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-110, MCA, is amended to read:

~~"15-30-110. Exemption for gain on sale or exchange of certain capital assets -- gains from stock of Montana qualified corporations. (1) Notwithstanding the provisions of 15-30-111, adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.~~

~~(2) (a) Capital gains on common or preferred stock that was purchased after December 31, 2004, in a qualified corporation that is held for at least 3 years is not included in adjusted gross income.~~

~~(b) For the purposes of this subsection (2), "qualified corporation" means a corporation that:~~

~~(i) is a C. corporation and has been reported as a C. corporation for federal tax purposes for the 2 years immediately preceding the year in which the exemption is claimed;~~

~~(ii) was not publicly traded on a stock exchange or listed for over-the-counter trading or was not affiliated, as defined in 13 CFR 121.103, with a publicly traded company at the time the stock was purchased;~~

~~(iii) is headquartered within the state and has its principal business operations located within the state;~~

~~(iv) has at least 35% of its directors and officers and 60% of its employees residing in the state in the year in which the exemption is claimed and for at least the 2 years immediately preceding the year in which the exemption is claimed;~~

~~(v) employed fewer than 100 full-time equivalent employees at the time the stock was purchased and has fewer than 500 full-time equivalent employees when the exemption is claimed;~~

~~_____ (vi) is an active operating entity that produces goods or services. An active operating entity under this subsection (2)(b)(vi) does not include a passive investment entity that primarily engages in buying, holding, and trading assets for speculation on price changes such as:~~

~~_____ (A) real estate holding companies, real estate investment trusts, and companies whose assets predominantly consist of real property or whose income is predominantly derived from the sale, rental, or management of real property or interests in real property such as leaseholds or mineral rights;~~

~~_____ (B) companies whose assets predominantly consist of or whose income predominantly arises from financial instruments such as futures contracts, insurance contracts, mortgages, or debt obligations;~~

~~_____ (C) shell business entities, as defined in 33-12-102, whose assets predominantly consist of share and equity interests in other companies;~~

~~_____ (c) A distribution of income that would have qualified as capital gains to the pass-through entity under subsection (2)(a) is not included in the adjusted gross income of the partner, shareholder, member, or other owner of the pass-through entity. The income must be attributed to the partner, shareholder, member, or other owner of a pass-through entity in the same proportion used to report the pass-through entity's income or loss for Montana income tax purposes."~~

~~_____ **Section 2.** Section 15-30-111, MCA, is amended to read:~~

~~_____ **"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:~~

~~_____ (a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;~~

~~_____ (ii) exempt interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);~~

~~_____ (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;~~

~~_____ (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;~~

~~_____ (d) depreciation or amortization taken on a title plant as defined in 33-25-105(15);~~

1 ~~——— (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the~~
2 ~~amount recovered reduced the taxpayer's Montana income tax in the year deducted;~~

3 ~~——— (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of~~
4 ~~the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution~~
5 ~~of the same estate or trust for the same tax period; and~~

6 ~~——— (g) except for exempt interest dividends described in subsection (2)(a)(ii), for tax years commencing~~
7 ~~after December 31, 2002, the amount of any dividend, to the extent that the dividend is not included in federal~~
8 ~~adjusted gross income.~~

9 ~~——— (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not~~
10 ~~include the following, which are exempt from taxation under this chapter:~~

11 ~~——— (a) (i) all interest income from obligations of the United States government, the state of Montana, a~~
12 ~~county, municipality, or district, or other political subdivision of the state and any other interest income that is~~
13 ~~exempt from taxation by Montana under federal law;~~

14 ~~——— (ii) exempt interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.~~
15 ~~852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);~~

16 ~~——— (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and~~
17 ~~including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;~~

18 ~~——— (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income~~
19 ~~received as defined in 15-30-101;~~

20 ~~——— (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:~~

21 ~~——— (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total~~
22 ~~amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in~~
23 ~~excess of \$30,000 as shown on the taxpayer's return;~~

24 ~~——— (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity~~
25 ~~income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in~~
26 ~~subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000~~
27 ~~as shown on their joint return;~~

28 ~~——— (d) all Montana income tax refunds or tax refund credits;~~

29 ~~——— (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);~~

30 ~~——— (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by~~

1 ~~section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on~~
2 ~~January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide~~
3 ~~food, beverage, or lodging;~~

4 ~~———(g) all benefits received under the workers' compensation laws;~~

5 ~~———(h) all health insurance premiums paid by an employer for an employee if attributed as income to the~~
6 ~~employee under federal law;~~

7 ~~———(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a~~
8 ~~manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";~~

9 ~~———(j) principal and income in a medical care savings account established in accordance with 15-61-201~~
10 ~~or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a~~
11 ~~dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;~~

12 ~~———(k) principal and income in a first-time home buyer savings account established in accordance with~~
13 ~~15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time~~
14 ~~purchase of a single-family residence;~~

15 ~~———(l) contributions withdrawn from a family education savings account or earnings withdrawn from a family~~
16 ~~education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated~~
17 ~~beneficiary;~~

18 ~~———(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the~~
19 ~~recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;~~

20 ~~———(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of~~
21 ~~the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution~~
22 ~~of the same estate or trust for the same tax period;~~

23 ~~———(o) deposits, not exceeding the amount set forth in 15-30-603, deposited in a Montana farm and ranch~~
24 ~~risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction~~
25 ~~is not provided for federal income tax purposes;~~

26 ~~———(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income~~
27 ~~pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the~~
28 ~~child and taxpayer meet the filing requirements in 15-30-142.~~

29 ~~———(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or~~
30 ~~withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;~~

1 ~~—— (r) the amount of exempted capital gains from the sale of common or preferred stock from investment~~
2 ~~in qualified Montana corporations as provided in 15-30-110(2).~~

3 ~~—— (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(i) shall~~
4 ~~include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as~~
5 ~~provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election~~
6 ~~is effective.~~

7 ~~—— (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business~~
8 ~~deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38~~
9 ~~and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages~~
10 ~~and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and~~
11 ~~salaries were used to compute the credit. In the case of a partnership or small business corporation, the~~
12 ~~deduction must be made to determine the amount of income or loss of the partnership or small business~~
13 ~~corporation.~~

14 ~~—— (5) Married taxpayers filing a joint federal return who are required to include part of their social security~~
15 ~~benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal~~
16 ~~base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement~~
17 ~~benefits when they file separate Montana income tax returns. The federal base must be split equally on the~~
18 ~~Montana return.~~

19 ~~—— (6) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end~~
20 ~~of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income~~
21 ~~up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is~~
22 ~~absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the~~
23 ~~excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the~~
24 ~~taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the~~
25 ~~limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted~~
26 ~~gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage~~
27 ~~in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting~~
28 ~~or expected to last at least 12 months.~~

29 ~~—— (7) Married taxpayers who file a joint federal return and who make an election on the federal return to~~
30 ~~defer income ratably for 4 tax years because of a conversion from an IRA other than a Roth IRA to a Roth IRA,~~

1 pursuant to section 408A(d)(3) of the Internal Revenue Code, 26 U.S.C. 408A(d)(3), may file separate Montana
2 income tax returns to defer the full taxable conversion amount from Montana adjusted gross income for the
3 same time period. The deferred amount must be attributed to the taxpayer making the conversion.

4 ~~—— (8) An individual who contributes to one or more accounts established under the Montana family~~
5 ~~education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the~~
6 ~~contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000,~~
7 ~~for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions~~
8 ~~made by the spouses as being made by each spouse. The reduction in adjusted gross income under this~~
9 ~~subsection applies only with respect to contributions to an account of which the account owner, as defined in~~
10 ~~15-62-103, is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or~~
11 ~~stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of~~
12 ~~contributions that reduced adjusted gross income.~~

13 ~~—— (9) (a) A taxpayer may exclude up to \$5,000 from the taxpayer's adjusted gross income if the taxpayer:~~

14 ~~—— (i) is a health care professional licensed in Montana as provided in Title 37;~~

15 ~~—— (ii) is serving a significant portion of a designated geographic area, special population, or facility~~
16 ~~population in a federally designated health professional shortage area, a medically underserved area or~~
17 ~~population, or a federal nursing shortage county as determined by the secretary of health and human services~~
18 ~~or by the governor;~~

19 ~~—— (iii) has had a student loan incurred as a result of health-related education; and~~

20 ~~—— (iv) has received a loan payment made on the taxpayer's behalf by a loan repayment program described~~
21 ~~in subsection (9)(b) as an incentive to practice in Montana.~~

22 ~~—— (b) For the purposes of subsection (9)(a), a loan repayment program includes a federal, state, or~~
23 ~~qualified private program. A qualified private loan repayment program includes a licensed health care facility,~~
24 ~~as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the~~
25 ~~facility as a licensed health care professional. (Subsection (2)(f) terminates on occurrence of contingency--sec.~~
26 ~~3, Ch. 634, L. 1983; subsection (2)(e) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"~~

27
28 **SECTION 1. SECTION 15-30-121, MCA, IS AMENDED TO READ:**

29 **"15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are
30 allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not deductible:

(i) items provided for in 15-30-123;

(ii) state income tax paid;

(iii) premium payments for medical care as provided in subsection (1)(g)(i);

(iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and

(v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701;

(b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head of household, or married filing separately or \$10,000 if married and filing jointly;

(c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as follows:

(i) expenses for household and dependent care services necessary for gainful employment incurred for:

(A) a dependent under 15 years of age for whom an exemption can be claimed;

(B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and

(C) a spouse who is unable to provide self-care because of physical or mental illness;

(ii) employment-related expenses incurred for the following services, but only if the expenses are incurred to enable the taxpayer to be gainfully employed:

(A) household services that are attributable to the care of the qualifying individual; and

(B) care of an individual who qualifies under subsection (1)(c)(i);

(iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;

(iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:

(A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;

(B) expenses for services in the household are deductible under subsection (1)(c)(i) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the expenses incurred during the year do not exceed:

(I) \$2,400 in the case of one qualifying individual;

(II) \$3,600 in the case of two qualifying individuals; and

(III) \$4,800 in the case of three or more qualifying individuals;

(v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

(vi) for purposes of this subsection (1)(c):

(A) married couples shall file a joint return or file separately on the same form;

(B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:

(I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

(C) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;

(D) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;

(E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;

(d) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year that ended December 31, 1978;

(e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

(f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to the conditions set forth in 15-30-156;

(g) the entire amount of premium payments made by the taxpayer, except premiums deducted in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:

(i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer; and

(ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:

(A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

(B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for tax years beginning after December 31, 1996;

(h) light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the tax year;

and

(i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201; and

(j) 50% OF THE capital gains on common or preferred stock that was purchased in a qualified corporation, as provided in subsection (3), after December 31, 2004, and that was held for at least 3 years. THE DEDUCTION ALLOWED UNDER THIS SUBSECTION (1)(J) MAY NOT EXCEED \$10 MILLION.

(2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

(c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the deduction under this subsection (2).

(3) For the purposes of subsection (1)(j):-

(A) "PURCHASE" MEANS AN ACQUISITION OF STOCK IF:

1 (I) THE BASIS OF THE STOCK IN THE HANDS OF THE PURCHASER IS NOT DETERMINED IN WHOLE OR IN PART BY
2 REFERENCE TO THE ADJUSTED BASIS OF THE STOCK IN THE HANDS OF THE PERSON FROM WHOM THE STOCK IS ACQUIRED;

3 (II) THE BASIS OF THE STOCK IN THE HANDS OF THE PURCHASER IS NOT DETERMINED UNDER SECTION 1014(A)
4 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 1014(A);

5 (III) THE STOCK IS NOT ACQUIRED IN AN EXCHANGE TO WHICH SECTION 351, 354, 355, OR 356 OF THE INTERNAL
6 REVENUE CODE, 26 U.S.C. 351, 354, 355, OR 356, APPLIES AND IS NOT ACQUIRED IN ANY OTHER TRANSACTIONS
7 DESCRIBED IN U.S. TREASURY REGULATIONS IN WHICH THE TRANSFEROR DOES NOT RECOGNIZE THE ENTIRE AMOUNT OF
8 THE GAIN OR LOSS REALIZED ON THE TRANSACTION; AND

9 (IV) THE STOCK IS NOT ACQUIRED FROM A PERSON THE OWNERSHIP OF WHOSE STOCK WOULD BE ATTRIBUTED,
10 UNDER SECTION 318(A) OF THE INTERNAL REVENUE CODE, 26 U.S.C. 318(A), TO THE PERSON ACQUIRING THE STOCK;
11 AND

12 (B) "qualified corporation" means a corporation that:

13 (a)(I) is a C. corporation and has been reported as a C. corporation for federal tax purposes for the 2
14 years immediately preceding the year in which the exemption is claimed;

15 (b)(II) was not publicly traded on a stock exchange or listed for over-the-counter trading or was not
16 affiliated, as defined in 13 CFR 121.103, with a publicly traded company at the time the stock was purchased;

17 (c)(III) is headquartered within the state and has its principal business operations located within the state;

18 (d)(IV) has at least 35% of its directors and officers and 60% of its employees residing in the state in the
19 year in which the exemption is claimed and for at least the 2 years immediately preceding the year in which the
20 exemption is claimed;

21 (e)(V) employed fewer than 100 full-time equivalent employees at the time the stock was purchased and
22 has fewer than 500 full-time equivalent employees when the exemption is claimed;

23 (f)(VI) is an active operating entity that produces goods or services. An active operating entity under this
24 subsection ~~(3)(f)~~ (3)(B)(vi) does not include a passive investment entity that primarily engages in buying, holding,
25 and trading assets for speculation on price changes such as:

26 (i)(A) real estate holding companies, real estate investment trusts, and companies whose assets
27 predominantly consist of real property or whose income is predominantly derived from the sale, rental, or
28 management of real property or interests in real property such as leaseholds or mineral rights;

29 (ii)(B) companies whose assets predominantly consist of or whose income predominantly arises from
30 financial instruments such as futures contracts, insurance contracts, mortgages, or debt obligations;

1 ~~(iii)~~(C) shell business entities, as defined in 33-12-102, whose assets predominantly consist of share
2 and equity interests in other companies."

3
4 **Section 2.** Section 15-31-114, MCA, is amended to read:

5 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the following
6 deductions are allowed from the gross income received by the corporation within the year from all sources:

7 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance
8 and operation of its business and properties, including reasonable allowance for salaries for personal services
9 actually rendered, subject to the limitation contained in this section, and rentals or other payments required to
10 be made as a condition to the continued use or possession of property to which the corporation has not taken
11 or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the
12 recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income
13 derived from outside the state, salaries of officers paid in connection with securing the income are deductible.

14 (b) (i) all losses actually sustained and charged off within the year and not compensated by insurance
15 or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the
16 trade or business. The allowance is determined according to the provisions of section 167 of the Internal
17 Revenue Code in effect with respect to the taxable year. All elections for depreciation must be the same as the
18 elections made for federal income tax purposes. A deduction is not allowed for any amount paid out for any
19 buildings, permanent improvements, or betterments made to increase the value of any property or estate, and
20 a deduction may not be made for any amount of expense of restoring property or making good the exhaustion
21 of property for which an allowance is or has been made. A depreciation or amortization deduction is not allowed
22 on a title plant as defined in 33-25-105(15).

23 (ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined
24 according to the provisions of 15-31-119.

25 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance
26 for depletion and for depreciation of improvements. The reasonable allowance must be determined according
27 to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the
28 Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and
29 intangible drilling expenses for corporation license tax purposes must be the same as the elections made for
30 federal income tax purposes.

(d) the amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from the property or business would be taxable under this part.

(e) (i) taxes paid within the year, except the following:

(A) taxes imposed by this part;

(B) taxes assessed against local benefits of a kind tending to increase the value of the property assessed;

(C) taxes on or according to or measured by net income or profits imposed by authority of the government of the United States;

(D) taxes imposed by any other state or country upon or measured by net income or profits.

(ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school district, or municipality of this state.

(f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

(g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

(ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.

(iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701.

(h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201;

(i) 50% OF THE capital gains on common or preferred stock that was purchased in a qualified corporation, as defined in ~~15-30-110(2)(b)~~ ~~15-1-121(3)~~ 15-30-121(3), THAT WAS PURCHASED AFTER DECEMBER 31, 2004, AND THAT WAS HELD FOR AT LEAST 3 YEARS. THE DEDUCTION ALLOWED UNDER THIS SUBSECTION (1)(i) MAY NOT EXCEED \$10 MILLION.

(2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

1 (a) the contribution is made no later than 5 years after the manufacture of the donated property is
2 substantially completed;

3 (b) the property is not transferred by the donee in exchange for money, other property, or services; and

4 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the
5 property and representing that the use and disposition of the property will be in accordance with the provisions
6 of subsection (2)(b).

7 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
8 defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that
9 section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section
10 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered,
11 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that
12 is not subject to tax under this chapter when earned by the regulated investment company. For the purposes
13 of computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal
14 Revenue Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply.
15 A regulated investment company is not allowed a deduction for dividends received as defined in sections 243
16 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be
17 amended or renumbered."

18 - END -